

HONORABLE THOMAS S. ZILLY

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

HARMONY GOLD U.S.A., INC.,

Plaintiff,

v.

HAREBRAINED SCHEMES LLC,  
HAREBRAINED HOLDINGS, INC., JORDAN  
WEISMAN, PIRANHA GAMES INC. and DOES  
1-10,

Defendants.

CASE No. 2:17-CV-00327-TSZ

**DECLARATION OF TODD S.  
FAIRCHILD IN SUPPORT OF  
PIRANHA'S REPLY IN SUPPORT OF  
PIRANHA'S MOTION FOR  
SUMMARY JUDGMENT AS TO  
PLAINTIFF'S LACK OF STANDING  
TO ASSERT COPYRIGHT  
INFRINGEMENT CLAIM (Dkt. 47)**

**REDACTED**

**NOTE ON MOTION CALENDAR:  
DECEMBER 22, 2017**

I, Todd S. Fairchild, hereby declare as follows:

1. I am an attorney practicing with the law firm of Dorsey & Whitney LLP, which represents defendant Piranha Games Inc. ("Piranha") in this matter. The statements made below are based on my personal knowledge, unless the context indicates otherwise.

2. In the months before Piranha filed its pending motion for summary judgment (Dkt. 47), I participated in several telephone conference calls with current and former counsel for plaintiff Harmony Gold U.S.A., Inc. ("Harmony Gold"). During at least one of those calls, Harmony Gold's current counsel (Ms. Stebbins Bina) stated her belief that [REDACTED]

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CLAIM

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1 [REDACTED] that would support Harmony Gold's  
2 claim that it had received a valid assignment of copyrights in the Big West Characters identified  
3 in Piranha's pending motion for summary judgment. Ms. Stebbins Bina stated that Harmony  
4 Gold would not spend the time or resources necessary to obtain those documents unless  
5 defendants were to file a dispositive motion.

6 3. In her declaration (Dkt. 67 at ¶ 9), Ms. Stebbins Bina states her understanding that  
7 the parties agreed to an informal stay of discovery in this case. The parties never agreed to stay  
8 any discovery. Counsel for Piranha served interrogatories and document requests on Harmony  
9 Gold many months ago. During the months leading up to Piranha filing its motion for summary  
10 judgment, counsel for Piranha requested and received from counsel for Harmony Gold various  
11 documents relating to Harmony Gold's alleged standing to assert its copyright infringement  
12 claims. There is no stipulation or agreement between the parties that prevented or relieved  
13 Harmony Gold from seeking any documents or information it allegedly needs to prove that it  
14 received a valid assignment of copyrights in the Big West Characters.  
15

16 I declare under penalty of perjury pursuant to the laws of the United States of America  
17 that the foregoing is true and correct to the best of my information, knowledge and belief.

18 Signed this 22<sup>nd</sup> day of December, 2017 at Seattle, Washington.

19 /s/ Todd S. Fairchild  
20 Todd S. Fairchild  
21  
22  
23  
24  
25

26 DECLARATION OF TODD S. FAIRCHILD IN SUPPORT OF PIRANHA'S REPLY  
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